# The International Centre for Settlement of Investment Disputes: a Multilateral Organization Enhancing a Bilateral Treaty Regime

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## Abstract:

Thirty years of negotiation on an international regime on investment have produced very little progress at the multilateral level – GATT's Uruguay Round resulted in some incorporation of investment measures, but discussions on a Multilateral Agreement on Investment have stalled completely. Over that same time span, however, outright expropriation of foreign investments has all but disappeared, and countries have become more and more willing to sign bilateral investment treaties (BITs). One of the common foundations of those treaties is that investment disputes are referred to the International Centre for Settlement of Investment Disputes (ICSID), an affiliate of the World Bank. Despite its situation at the heart of the international investment regime, this organization has received very little attention within political science circles. We therefore highlight ICSID's unique dispute resolution mechanism and present a new dataset of the cases brought before ICSID. We examine the basic patterns of which industries in which states have brought disputes, who is more likely to win the disputes, and which countries are the most likely to be challenged. We then outline a research program that demonstrates ICSID's importance to ongoing debates in international political economy.

Despite failures to establish a multilateral agreement on investment through the UN, the GATT/WTO, and the OECD, the international investment regime is alive and well, having arisen via a network of bilateral investment treaties (BITs). The proliferation of BITs has not gone unnoticed in political science circles.[1] But an important component of the bilateral treaties, provisions for the enforcement of these treaties, has received scant attention. The missing piece of the puzzle is the International Centre for the Settlement of Investment Disputes (ICSID), an independent organization associated with the World Bank, which effectively promotes and maintains a multilateral legal framework for the settlement of investment disputes. In particular, ICSID serves as a venue through which investors may seek the arbitration of investment disputes with host-country governments, a scenario that has occurred nearly 200 times. In this paper, we explore this little-known organization and its implications for the relationship between foreign investors and sovereign states.

In the following section of the paper, we provide a brief, but necessary, historical background. In the second section, we situate ICSID in the context of international dispute resolution more broadly by highlighting its unique features that make it so fascinating for the study of international political economy, and not just the study of international organizations per se. Next we outline ICSID's basic functions and its arbitration process before presenting some basic facts about the cases that have appeared before ICSID's thus far. Finally, we suggest a research agenda that cuts across several literatures for future work on ICSID.[2]

## Background

For more than two hundred years, countries have fought over the regulation of foreign investment. This international bargaining has frequently revolved around two questions: (1) when can a country that hosts foreign investment legitimately seize, or expropriate that investment, and (2) what compensation is due to the foreign investor, whether individual or firm, upon expropriation? Early laws and treaties, such as the Jay treaty signed after the American Revolution, emphasized the rights of foreign nationals to compensation for their lost property.[3] In 19th century era of gunboat diplomacy, several countries adopted the Calvo doctrine, which held that foreign investors could not make claims in their home countries or depend on diplomatic intervention until potential local remedies were exhausted.[4] This was of course more favorable to host states, and has been popular among less developed countries in particular. In the wake of a large number of expropriations after the Mexican Revolution, the US-Mexico Claims Commission (1923-34) handled American investors' claims of expropriation by the new Mexican government. The U.S. government, under the leadership of Secretary of State Cordell Hull, established a policy (the Hull rule) that states who expropriated property must provide "prompt, adequate and effective payment".[5] This was, of course, more favorable to investors. The battle has ebbed and

[1] Simmons, B., A. Guzman,, and Elkins, Zach. Forthcoming. "Competing for Capital: The Diffusion of Bilateral Investment Treaties, 1960-2000." International Organization.

[2] This is just the beginning of our work on this project, and we especially welcome feedback at this preliminary stage.

[3] Ginsburg 2005: 110

[4] The doctrine is named for Carlos Calvo, an Argentine historian, whose main work, *Derecho internacional teórico y práctico de Europa y America*, was published in 1868.

[5] Ginsburg 2005: 110.

flowed between the Calvo Doctrine and the Hull Rule since, with either host states or foreign investors (and capital-exporting states) faring better in any given period.

In 1962, the UN General Assembly passed Resolution 1803, which allowed expropriation in the national interest, as long as there was "appropriate compensation" (Ginsburg 110 – see footnote 11). The Cuban and North African expropriations in the 1960s generated much debate over the appropriate standards of expropriation, and it was in this context that the World Bank established ICSID. With the end of the Cold War and accompanying disenchantment with state ownership, outright expropriation has all but disappeared: they fell from a high of 83 in 1975 to 0 in at least six consecutive years in the early nineties.[6] Additionally, multinationals have gained significant bargaining power due to competition among less developed countries for foreign investment. However, those gains have not resulted in (or from) a multilateral arrangement on investment protection.

In the wake of their partial victory in the Uruguay Round agreement, in which some investment related issues were included, OECD countries began negotiations on a Multilateral Agreement on Investment in May of 1995. They chose the OECD as a forum in order to achieve a deeper level of cooperation on liberalizing foreign investment, which developing countries could then choose to join after the fact.[7] However, despite reducing the conflicts of interest at the bargaining table, the negotiations did not succeed in achieving an agreement that would set international investment on the same footing as international trade.[8]

Instead, a rapid escalation in the bilateral regulation of investment has occurred. Between 1997 and 2002, more than 600 bilateral investment treaties (BITs) were signed, many by the same countries that had opposed the MAI negotiations.[9] This begs the question of why the same states that cannot agree on investment at the multilateral level are willing to agree at the bilateral level: with some exceptions (India, Indonesia, and many Latin American countries that continued to espouse the Calvo Doctrine) most large states – both rich and poor – joined the ICSID Convention.[10] Of the 2000 bilateral investment treaties signed by the end of 2005, some 75% provide for ICSID to have a role in the settlement of disputes covered by the treaty.[11] Additionally, in recent years, ICSID has been written into national legislation on investment protections. It therefore assumes center stage in the international regime on foreign investment. In the next section, we situate ICSID as a unique organization in the large field of international commercial arbitration.

## International Commercial Arbitration & ICSID

In a world of increased cross-border interaction, numerous dispute settlement bodies have been created to resolve disputes between international actors. Many such bodies hear disputes between states, on both general issues (the ICJ) as well as trade (WTO dispute settlement mechanism) and maritime and seabed issues (International Tribunal for the Law of the Sea). Yet most international legal disputes involve one or more private actors, and

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[6] Minor 2004: 180.
[7] See Oatley 206.
[8] MIA attempted to incorporate the principle of most-favored nation, which served as an important foundation for the growth of international trade via GATT. For more on its failure, see Graham 2000.
[9] UNCTAD database: http://www.unctad.org.
[10] On multilateral in trade v. bilateral in investment, see Guzman 1998. Va. J. Int'l Law 38: 639-654
[11] Dañino 2005.

typically relate to some type of economic activity. Therefore, international commercial arbitration has become an important part of international law, made necessary due to the incompleteness of contracts. It is often preferred by firms and private interests due to its ability to avoid domestic legal systems, often allowing for speedier dispute resolutions, cost-savings, more specialized reviewers, or more privacy than more any potential judicial process.

Several organizations have arisen to meet the need for international commercial arbitration. Most disputes take place between two private actors, and can take advantage of several alternate settings for international arbitration, including the American Arbitration Association (AAA), the International Chamber of Commerce (ICC) Court of Arbitration, and country-specific arbitration organizations like The Korean Commercial Arbitration Board, The Japan Commercial Arbitration Association, and The China International Economic Trade Arbitration Commission, which according to Ginsburg (2005) is the most widely used arbitration body in the world.[12] Additionally, the Permanent Court of Arbitration (PCA), which has existed since 1907 but handles mostly arbitration cases involving two states. It can serve some private arbitration needs but was for many years unavailable to private investors and required state advocacy of an investor's cause. The UN Commission on International Trade Law (UNCITRAL), while it does not handle arbitrations directly,[13] has played a central role in spreading rules of arbitration to other bodies. Disputes between private parties can also be settled in national courts or via private mediators. In some ways, studying ICSID requires familiarity with basic issues in international commercial arbitration, and therefore suggests links to these other arbitral settings, but ICSID is ultimately a unique beast due to its unequal yoking of states and private actors.

Thanks to The New York Convention of 1958, which now includes about two thirds of the countries in the world as signatories, international arbitration rulings can (at least theoretically) be enforced via domestic legal systems. Of course, arbitration generally attracts parties that are more likely to abide by its rulings than the general population of disputes, and so enforcement is not a huge issue.[14]

A larger problem in international arbitration concerns jurisdiction[15] and this is the focus of much attention in the legal literature on international arbitration. Treaties or national laws must provide for international dispute resolution before it can automatically acquire jurisdiction. However, in the case where both parties want conciliation or arbitration through ICSID but do not have the legal right to dispute a claim via ICSID procedures, the organization has created an alternate forum that allows an expanded definition of jurisdiction. We return to this in the next section, but here the important point is that the expansion of the bilateral treaty regime has dramatically increased the jurisdiction of ICSID in recent years.

In fact, ICSID was recently called "the premier investor-State arbitration center in the world".[16] No other forum, excepting perhaps the little-used PCA (and it only since 1962), allows for arbitration between a private actor and a state. According to Baker, "private sector organizations such as the AAA, the ICC, and similar agencies in Japan and Korea do

[12] Ginsburg 2005: 119.
[13] From Baker, but should be verified.
[14] This is the logic from Downs, Rocke, and Barsoom 1998, which means that the true rate of compliance is probably lower than a measurable figure based on compliance with dispute rulings.
[15] Baker 1999, p. 33.
[16] Dañino 2005(a)

not offer mediation services when the investment dispute involved a host state government on the one side and a private foreign investor on the other" (45). Thus, ICSID's scope is somewhat limited within the world of international commercial arbitration, but its situation at the heart of the currently-existing investment regime makes it crucial for understanding the state of bargaining between foreign investors and host countries. Furthermore, as we point out in the next sections, its importance is likely to grow dramatically in the near future.

A huge advantage for studying ICSID compared to other bodies engaged in international mediation is that its caseload is (mostly) a matter of public record. Like the ICC, most other forums for international arbitration tend to keep their rulings private, and therefore are exceptionally difficulty to study. It is also not as interesting a case for international political economy, because few arbitration rulings on cases between private actors have much implication for international politics. ICSID rulings, however, are likely to gain more and more attention as it becomes the center of attention in the battle between investors and LDCs. The future importance of ICSID can be demonstrated by its dramatically increasing caseload.

While founded in 1966, ICSID failed to see much growth in its first 20 years. In 1968, ICSID made public model clauses for inclusion in contracts between investors and host states, and these model clauses have been used in well over 1000 contracts. In 1969, ICSID issued Model Clauses Relating to the Convention on the Settlement of Investment Disputes Designed for Bilateral Investment Treaties. They insure the use of ICSID facilities in the case of future disputes. So, ICSID directly impacted the expansion of the bilateral treaty regime, although it was not to gain momentum for another two decades.

In 1978 ICSID established the Additional Facility, which allows for arbitration in cases where parties do not fulfill the usual ICSID criteria, i.e., investors do not hail from ICSID signatory states, or the host country is not an ICSID signatory. The Additional Facility can also accept disputes that are not over investment per se but instead "relates to a transaction having characteristics that distinguish it from an ordinary commercial transaction".[17]

Even with this expansion in scope, by 1984 the organization still had only three employees and only a few cases. Over the next twenty years, ICSID began to grow much faster. By 2005, 25 staff handled 113 pending cases, with that load increasing yearly (Dañino 2005(b)). Given that more than one quarter of BITs were signed in the last 10 years, that load is bound to increase at an even greater rate in the future (see Figure 1). By 1999, 129 states were members of ICSID.[18] As of January, 2006, the ICSID Convention claimed 155 states as signatories, with 143 of those states having ratified the Convention through the necessary domestic channels.[19] Canada, interestingly, has not ratified the agreement, and is the only industrialized state not to do so.[20]

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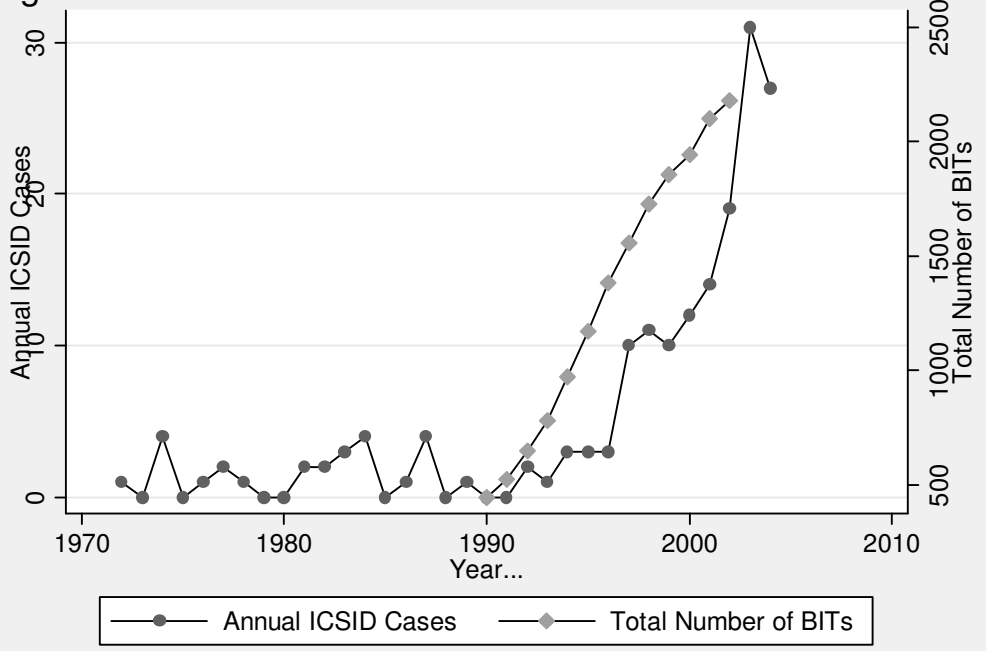
[17] Baker 1999: 61.
[18] Baker 1999: 43.
[19] ICSID website http://www.worldbank.org/icsid/constate/c-states-en.htm, Accessed March 30, 2006.
[20] Baker (1999) provides five reasons for Canada's failure to join: (1) some government officials worry that joining ICSID would constrain their policy options regarding foreign investment; (2) "some believe that provincial legislation is required to ratify" it; (3) until recently ICSID was of limited value due to its lack of Latin American members; (4) few disputes were actually submitted to ICSID; and (5) nonratification has not hurt investment into Canada, and the business community has little desire to push for membership although it has "clearly expressed its support of ICSID to the federal government on several occasions" (44).

Figure 1: The Growth of Investment Treaties and ICSID Cases




Additionally, out of the 2000 bilateral investment treaties signed by the end of 2005, approximately 1500 call for dispute resolution via ICSID.[21] Both of these figures indicate that roughly 75% of new foreign investment in which the host state contracts with foreign investors is subject in principle to ICSID dispute resolution. ICSID has also received jurisdiction of cases under four recent multilateral trade and investment treaties (the North American Free Trade Agreement, the Energy Charter Treaty, the Cartagena Free Trade Agreement and the Colonia Investment Protocol of Mercosur).[22]

Furthermore, in a compilation of the 59 known treaty disputes with stakes of at least $100 million, 44 filed originally with ICSID.[23] These include cases with various stakes, but even of the top ten, where the stakes are the greatest, half of them filed with ICSID. This suggests that at least thus far, ICSID's public process has not biased the cases it receives, and that even cases with very large amounts of money at stake are willing to use the ICSID forum.

ICSID's innovation relative to previous attempts to solve investment disputes is to allow foreign investors a direct channel for resolving disputes. They do not have to petition their home governments to intercede.[24] This is a crucial step for the development of international law, as well as for the effectiveness of the international investment regime.

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[21] Roberto Dañino, Speech to OECD, December, 2005. Available via OECD website at http://www.oecd.org/dataoecd/5/8/36053800.pdf. Accessed March 30, 2006.

[22] ICSID web site – http://www.worldbank.org/icsid/about/about.htm. Chapter 11 of NAFTA, which grants investors the rights to ICSID dispute resolution, has received much attention and is considered controversial.

[23] Goldhaber 2005.

[24] In the case of trade disputes, domestic economic actors must convince their government to initiate WTO dispute settlement proceedings against a foreign firm, industry, or government that has allegedly violated GATT/WTO legal obligations in some manner.

But the ramifications of this development are only now beginning to appear clearly, via the heavy use of ICSID disputes in the wake of the Argentine crisis of 2001. We well delve into this in greater detail in the fourth section of the paper.

In summary, ICSID shares the flexible procedures of other types of international commercial arbitration, but does not deal with the vast majority of such arbitrations, which are between private parties. When the contract in question involves a state, however, ICSID is very likely to be the setting for foreign investment disputes. In the next section, we review ICSID's other functions and detail the arbitration procedure.

## ICSID Functions and Procedures

ICSID offers conciliation and arbitration services to countries or investors from countries that have ratified the Convention. Conciliation services, in which ICSID offers assistance without offering a binding solution to the parties, are not used nearly as often. Arbitration services, in which a panel of experts makes a binding ruling, are used much more often. Technically, ICSID does not arbitrate itself, but simply serves to help disputants create an acceptable panel and to provide logistical support. However, this legalistic interpretation of ICSID's role fails to capture several of ICSID's important roles during and before the arbitration process. It is also true that ICSID falls short of a true adjudicative body, which would have a standing court and automatic jurisdiction, but again, that detraction fails to appreciate just how far the process of legalization has proceeded in the relationship between foreign investors and host states.

In addition to its conciliation and arbitration services, ICSID "assists LDCs in the formulation of treaties and laws that encourage and ease foreign investment into such countries".[25] As already mentioned, this involves the publication of model clauses that can be (and are) incorporated into bilateral treaties or national laws, as well as model clauses for contracts that states sign with foreign investors. ICSID also works with other centers of international commercial arbitration (including the American Arbitration Association and the International Chamber of Commerce) to publicize the availability of their dispute resolution processes and to enhance such processes.

The organization now publishes several journals and books related to its own arbitration proceedings. Additionally, it has collected data on the investment laws of all member countries, and published this collection under the title *Investment Laws of the World*. In this sense, it is serving much the same purpose for investment laws that the IMF serves for exchange rate laws in its *Annual Report on Exchange Arrangements and Exchange Restrictions*. However, ICSID collects the texts of these investment laws rather than quantifying them, and rather than an annual update, ICSID publishes all the texts together in revised editions.

But of course the most important function, and our focus here, is the arbitration process.[26] We detail that process below in order to provide the background for our summary statistics in the following section.

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[25] Baker 1999: 46.

[26] The processes for conciliation commissions are quite similar to the arbitration process, so we present details of only the latter here.

*The ICSID Arbitration Process*

When a state signs the ICSID Convention, it has the right to place up to four names on the permanent list of potential arbitrators, called the Panel of Conciliators and Arbitrators. The Secretary-General can also place up to ten names on this list. Submissions to this list are typically lawyers, and sometimes businessmen or financiers who are thought to be capable of exercising independent judgments.[27] When a dispute is referred to ICSID, it helps the parties to select a three-member panel, but arbitrators who are not on the list can be chosen.[28] Each of the parties to the dispute can choose one arbitrator, while the third must be jointly chosen. If the two parties cannot agree on a third, that person will be selected by the Secretary-General.[29] The third person always serves as President of the tribunal.[30] Parties who fail to select arbitrators within 90 days will have the remaining panel members chosen by the Chairman of the ICSID Administrative Council, which is comprised of representatives of each signatory state.

Constitution. Once the dispute has been submitted, following the procedures outlined in the ICSID Convention and supplemented by the Administrative Council, the Secretary-General determines whether it indeed falls under ICSID's jurisdiction. This is required by Article 36(3), and if the Secretary-General believes that the dispute falls under ICSID jurisdiction, it is "constituted"; if not, the dispute is discontinued by the Secretary General. Legal disputes must arise from an investor whose home country is an ICSID Convention signatory, and the host state to the investment must also be an ICSID signatory. [good place for who has actually signed this?]

Preliminary consultation. Next the parties attend a preliminary procedural consultation, which is also attended by the president of an "established ICSID tribunal"(?)(Baker p. 53). During the preliminary consultation, the parties agree on parameters of the arbitration, including the languages to be used in the proceeding, the number and sequence of proceedings, deadlines for such proceedings, and the records from the proceedings, among others.[31]

Tribunal. The first meeting of the actual tribunal must be held within 60 days of constitution, after the preliminary consultation. The tribunal then has several issues to resolve, the most important of which is the choice of law. Article 42 of ICSID calls for an attempt at the parties' joint agreement on the law to be applied; in the absence of that joint agreement, the relevant law of the "contracting" (host?) state will be used, along with any applicable international law (such as?). This is especially important because Article 42 does not allow tribunals to forego rendering a verdict due to uncertainty in the legal framework. One the choice of law has occurred the tribunal continues until it can render an award or until the case is discontinued, which often means that the parties have agreed on a resolution during the proceedings.

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[27] Baker p. 52.
[28] It may be important to note that ICSID does not actually perform the arbitration but instead helps the parties to organize the process. Baker (1999) seems to believe that this is an important distinction.
[29] In the last year, about a quarter of the arbitrators were selected by ICSID (16 out of 68) (Danino 2005b).
[30] Parties are actually free to expand the number of arbitrators, as long as it is an odd number. However, until now all ICSID panels have been comprised of three members.
[31] Baker p. 53.

During the tribunal, ICSID facilitates the process by organizing meeting times and places. The meetings are usually held at the Permanent Court of Arbitration at The Hague, or in regional arbitration centers, such as Cairo, Kuala Lumpur, Melbourne, Sydney, or the ICSID headquarters in Washington.[32]

At the resolution, costs for the proceedings are apportioned by the tribunal, and the parties to arbitration are legally bound by the tribunal's decision. States who have signed the ICSID Convention, including by definition the host state and the investor's home state, have by doing so agreed to recognize the tribunal's award as binding and to enforce that ruling through its own legal system. Note that this means that a host state that loses an arbitration case can be legally obligated to enforce the ruling on itself. Baker notes a potential loophole in Articles 54 and 55: "it would appear that any signatory state against which an award has been rendered could plead the rules of sovereign immunity from execution of the judgment of the award" (59). Again, this differs dramatically from the case of arbitration proceedings between private parties, even though such awards are enforceable in a similar vein via The New York Convention of 1958. In practice, not all awards achieve compliance, but Baker (1999) estimates that the parties to the dispute comply with 85% of all awards without reference to enforcement.[33]

**Appeals and annulment**. Appeals do not exist in their normal capacity in domestic law. They are allowed only the case of omitted issues or new evidence (within 90 days of the award) or clerical errors in the award. Additionally, the losing party can apply for an annulment of the award on some grounds, including improperly constituted tribunals, corruption, or violations of the agreed rules of arbitration. Annulment is heard by a second panel of arbitrators, giving rise to the unique (and controversial) feature that arbitrators in effect judge the performance of other arbitrators. Annulment, however, rarely occurs, and to date, no country has defaulted on an ICSID award.[34]

## Descriptive Statistics on ICSID Cases

In this section we present descriptive statistics on the 172 ICSID cases that were registered from its founding through the end of 2004. We plan to include all cases in the near future, but for out purposes here, only the cases through the end of 2004 are currently relevant because none of the post-2004 cases have been concluded.

**From what states do the claimants originate?** By far the largest number of claimants – 62 of our 172 cases (36%) – originate in the United States (see Table 1, below). No other country is home to more than twenty claimants, but France and Italy appear to the second and third most likely homes for claimants, with 17 and 14 cases respectively. The vast majority of claimants are from the industrialized countries: 148 of the 172 (86%) claimants

[32] Baker 1999, p. 55.

[33] Baker 1999: 58. This figure is similar to rates of compliance with rulings issues by other international legal bodies, such as the World Trade Organization dispute settlement panels and the International Court of Justice.

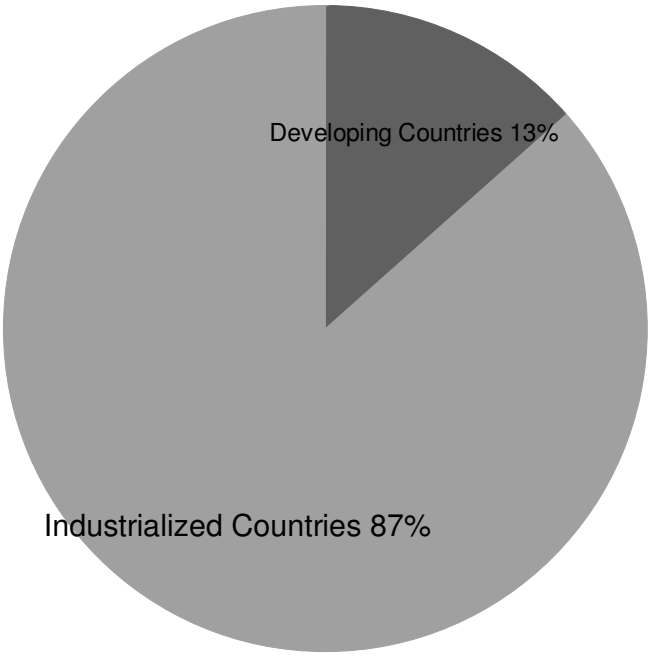
[34] The largest challenge to the compliance with ICSID awards is currently underway, with Argentina debating whether to honor the first in a probably series of awards. According to *The Economist*, "Argentina's government does not have the cash to pay anything close to the sumes that ICSID is likely to award foreign firms". "Getting Serious: Business in Argentina." *The Economist* May 19, 2005.

are from the developed world (see Figure 2, below).[35] The developing countries that are home to the investors using ICSID are a varied lot, and only Chile is represented by more than two claimants. Other developing countries that are home to ICSID claimants include Argentina, Mexico (2 cases), Peru, Cyprus, Kuwait, Saudi Arabia, Hong Kong, Malaysia, Gabon, Tanzania, and Lithuania. Additionally, the British Virgin Islands, the Cayman Islands, and the Netherlands Antilles are all home to ICSID claimants.

| Table 1: Which countries are home to the investors using ICSID? | |
|---|---|
| ***Home Countries of Claimants*** | ***Number of ICSID Cases*** |
| United States | 62 |
| France | 17 |
| Italy | 14 |
| Canada | 8 |
| United Kingdom | 7 |
| Belgium | 7 |
| Germany | 7 |
| Spain | 7 |
| *Includes 172 cases through end of 2004;*<br>*no other country was home to more than four investors who were ICSID claimants.* | |

[35] We have identified countries using the country codes from the IMF's International Financial Statistics database. Industrial countries are coded as less than 200, so we use this distinction to divide countries into industrialized and nonindustrialized. Additionally, where claimants were registered in entities not included in the IFS database, we assigned those entities codes consistent with the IMF system. For example, the British Virgin Islands were assigned a code of 365, and Liechtenstein was assigned a code of 137.

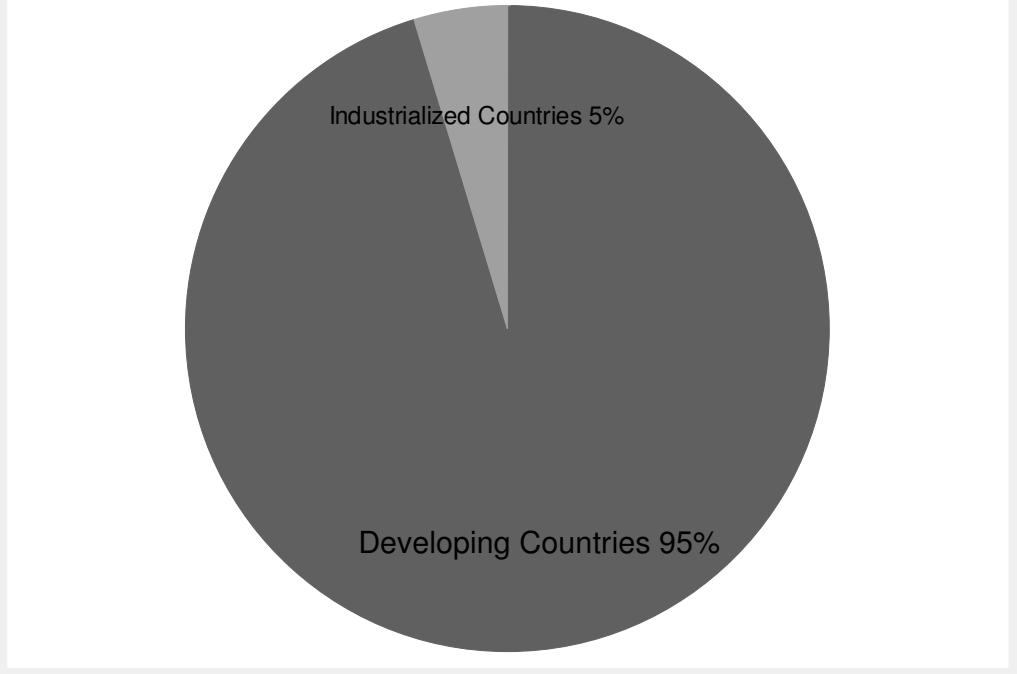
Figure 2: Home countries of claimants




**Which countries are challenged in ICSID?** Here the story is reversed – only eight developed countries have been targeted by foreign investors in ICSID proceedings. The United States has been an ICSID respondent three times, Turkey twice, and Iceland, Spain, and New Zealand once each. Among developing countries, Argentina makes up by far the largest number of ICSID cases (37 cases - almost 22% of the total through 2004), with many of those pending. Second is Mexico, with eleven cases, and third is Egypt, with eight cases. Democratic Republic of Congo has been challenged five times, as has Pakistan. In all, 62 different developing countries have been respondents in ICSID tribunals. Table 2 and Figure 3 shows these descriptive statistics graphically.

| Table 2: Which countries are challenged in ICSID? | |
|---|---|
| *Host Countries /Respondents* | *Number of ICSID Cases* |
| Argentina | 37 |
| Mexico | 11 |
| Egypt | 8 |
| Pakistan | 5 |
| Dem. Rep. of Congo | 5 |
| Ecuador | 4 |
| Venezuela | 4 |
| Ukraine | 4 |

Figure 3: Host countries/Respondents




**What industries are most often involved in ICSID disputes?** We coded the ICSID cases using the ISIC (Revision 3) industry codes.[36] The largest number of cases (42) involved electricity, gas, and water supply. Much of this is due to the Argentine cases, many of which revolve around recently privatized utilities: there are nine oil and gas sector cases, four electricity cases, three water sector cases, along with a telecommunications case, and an insurance case. In the aftermath of the 2001 crisis, the Argentine government revalued the currency but required that payments to utilities remain at the same levels, in effect reducing the payments to foreign investors. Even without Argentina's collapse, however, this category would have been well represented.

The second largest group of cases (31) is in manufacturing, almost half of which involve food products and beverages (8) or textiles (6). This group is similar in number to construction (28) and to mining and quarrying (26). Of the latter, nine cases are related to extraction of petroleum or natural gas, and nine involved metal ores. Sixteen cases fall under the transport, storage and communications category, while fifteen cases deal with disputes in financial intermediation. Thus, while industries that have typically been at the center of the expropriation debates (e.g., mining and extraction) are represented, by no means do they dominate the caseload, which seems balanced across a number of issue areas.

[36] http://unstats.un.org/unsd/cr/registry/regcst.asp?Cl=2&Lg=1

| Table 3: Which industries are most involved in ICSID disputes? | |
|---|---|
| *Industry (ISIC Rev. 3, 2 digit category)* | *Number of ICSID Cases* |
| Electricity, gas, steam and hot water supply | 33 |
| Construction | 28 |
| Financial intermediation, except insurance and pension funding | 13 |
| Extraction of crude petroleum and natural gas; service activities incidental to oil and gas extraction excluding surveying | 9 |
| Mining of metal ores | 9 |
| Collection, purification and distribution of water | 9 |
| Manufacture of food products and beverages | 8 |
| Post and telecommunications | 7 |

### How long does the average ICSID dispute last?

The average panel lasts more than two years – the mean number of days from the constitution of a panel to resolution is 756. The median case is somewhat shorter, at 693 days. Only 25 percent of the cases are resolved in fewer than 500 days, while another 25 percent last more than 968 days. Changing the starting point to date of registration shows, not surprisingly, a longer process, and the mean rises to 1045 days – close to three years. We must observe that the supposed speed advantage of an ICSID tribunal is evidently an extremely relative concept, depending on the even slower judicial processes in host countries. Or this could suggest that speed is really not the primary reason that investors want to use ICSID.

### Who wins ICSID tribunals?

Outcomes are available for about half the cases. Some of those have been difficult to locate. Thus far we have 91 cases coded with outcomes. One of the biggest hurdles to ICSID arbitration is jurisdiction, and of the 91 registered cases, seven have ended with tribunals deciding that they had no jurisdiction in the case. Some of those have been referred to other arbitration bodies.

Of the remaining cases, 33 included awards to the claimant, meaning that foreign investors have won more than one third of the cases thus far. Only eight cases were outright victories for the respondent, but we suspect that the actual record of respondent victories is higher, given the large number of cases that are discontinued by the claimant (nine) or by ICSID (eleven). Indeed, in a December, 2005, speech, the Secretary-General of ICSID, Robert Dañino, claimed that "the outcomes of ICSID arbitrations are equally divided, almost exactly 50/50, in awards for investors and for States" (2005(b)). While our data do not show that to be true for awards from tribunals that have fully run their course, the overall outcomes seem roughly to support that figure. Furthermore, this 50/50 split is consistent with scholarship on the economic analysis of the law.[37]

[37] Priest and Klein 1984.

Lastly, many of the cases are settled during the proceedings. The ICSID Convention maintains that once both parties have agreed to the settlement process, neither can unilaterally discontinue.[38] However, in the case of settlement, this clearly happens. This appears to be one area where the behavior of tribunals and their rules diverge.
Of the 91 cases with outcomes, 23 have been settled before the tribunal issued an award. This seems to be an increasing trend, as Dañino notes, with seven out of the last ten cases in 2005 falling into this category. As a result, ICSID is exploring the establishment of a mediation facility as well as a greater commitment to conciliation services, which are included in the ICSID convention but rarely used.

### Where are the arbitrators from? And are they typically experienced?

The typical president of an arbitration panel is a male citizen of an OECD country serving on his third panel. Over 25% of presidents are newcomers to the ICSID process, however. Other panel members are typically slightly less experienced than the president, averaging a little over two previous panel experiences each. The most experienced ICSID arbitrators were serving in their tenth and eleventh panels by the end of 2004.

Panel presidents from industrialized countries outnumber their developing country counterparts by 111 to 43, but developing country arbitrators tend to repeat on panels more often – they average almost one case more experience. The other two arbitrators are also more likely to be from industrialized countries – roughly two thirds of non-presidential arbitrators were from the developed countries. Of the non-presidential arbitrators, those from industrialized countries were likely to have about half a case more experience on average than their developing country counterparts.

As the caseload has increased, the small number of arbitrators with experience "are being stretched to the limit" at least in part due to the fact that the same lawyers who serve as tribunal members often serve as counsel or experts in other cases (Dañino 2005(b)). This appears also to have resulted in greater concern about arbitrators' independence, with a higher number of challenges seen in recent years. In 2005, for example, there were six challenges to the impartiality of tribunal members. ICSID seems to realize the need to expand the number of experienced arbitrators, and so in 2005, almost half of ICSID's 68 appointees were first-time arbitrators.

## Research Agenda

Thus far we have focused on a basic description of ICSID and its importance to foreign investment, particularly in developing countries. However, we believe that more thorough study of ICSID is warranted because of its potential contribution to several other literatures in international political economy and international organizations. In this section, we conceptualize several "stages" of topics that we hope to consider in future papers, including questions related to: 1) the creation and institutional design of ICSID (why does it exist, why is it part of BITs, why do some BITs contain ICSID provisions while others do not?), 2) the use of ICSID (which countries, firms, industries experience ICSID disputes? Has there been a recent increase in ICSID cases?), 3) outcomes of ICSID (who wins, why do some cases settle

[38] For more on the provisions designed to prevent unilateral withdrawal, see Aron Broches. 1968. "The Convention on the Settlement of Investment Disputes: Some Observations on Jurisdiction." *Columbia Journal of Transnational Law* 5: 264-5,.

early, what explains how arbitrators vote?), and 4) the feedback from ICSID (what type of FDI regime has been created, does ICSID affect patterns of future FDI? etc.)

1) Creation and Design

The patterns of state behavior we observe via ICSID should be able to provide new evidence for debates in the literature on international cooperation. Are states who join ICSID just formalizing existing behavior; that is, do signatories to the ICSID convention typically have previous experience in international arbitration? Fundamentally, are there differences between states that include ICSID provisions in their BITs or in domestic legislation and those that sign BITs but do not precommit to using ICSID? What role does ICSID play, if any, in generating greater international cooperation (through the signing of BITs and other international investment agreements (IIAs)). Other work in the literature suggests that effective dispute resolution mechanisms make international institutions – or in this case regimes – more attractive to states (Rosendorff 2005). Do these differences in treaty signings provide evidence along those lines? If not, how can we demonstrate ICSID's importance for the expansion of such agreements?

Additionally, the literature on the rational design of international institutions suggests that ICSID's individual features serve specific purposes, and provide specific advantages to states (Koremenos, Lipson, and Snidal 2001). The Argentine cases challenge this logic, as ICSID's design and capabilities were not prepared to receive a series of cases related to one country's policy changes in response to a crisis. Therefore, why is ICSID designed to take this particular form? How does it differ from other dispute resolution bodies? And how do recently proposed reforms change its operation?

2) Use

When is ICSID used? This question has multiple dimensions. Given patterns of foreign investment and signatories of bilateral treaties, which host states are likely to be challenged? Which industries and TNCs are likely to be involved? The challenge here is empirical – what is the relevant population of cases and the appropriate research design? Do we think in terms of "dyad-years" or "country-years" to conceptualize "potential" ICSID disputes? Do we perhaps weigh cases by the number of TNCs in a country or by the volume of FDI in a particular industry?

How are developing countries responding to ICSID's use? Given the rapid number of bilateral treaties signed in the last ten years, as well as their ambiguity of language, we have to at least allow for the possibility that in some cases signatory states did not realize the potential consequences of actions designed to enhance their attractiveness to investors.

Finally, are investors using ICSID more as they become more aware of its existence? Or has ICSID continued to receive cases at the same rate, while the expansion of the bilateral treaty regime has increased its jurisdiction? In other words, has the ICSID caseload expanded because investors have learned how to use it better, or because countries have learned that there are incentives for joining the regime?

3) Outcomes

In thinking about the outcomes of ICSID proceedings, which ICSID cases are settled early? What types of cases (high vs. low stakes, which industry, which legal issues, etc?) are most likely to be won by the host country actor, and vice-versa?

How do individual arbitrators vote? Do they vote in favor of the actor that appointed them? Is there systematic "bias" in arbitrator decisions? Are most decisions unamimous, or are most split awards in which the voting is 2-1?

Finally, what types of decisions are most likely to be contested by the losing party? Why do we generally see high rates of compliance with ICSID decisions?

4) Feedback/Consequences

Generally, are there reputational effects of ICSID proceedings? Does the presence of an ICSID dispute decrease future FDI to the host state?[39] Such an effect could apply to overall FDI levels, but is probably more likely to be seen along sectoral lines. Does the presence of a past ICSID dispute make other states demand to sign BITs w/ ICSID with the past ICSID loser? Do only those past cases in which the host state "loses" have a (negative) impact on FDI? Or does merely being challenged have an impact?

ICSID (and the BIT "regime" more broadly) represents the construction of a multilateral institution through bilateral interactions. Basically, states negotiate and sign bilateral agreements, and in the process of doing so, they (purposefully or inadvertently) create a multilateral institution governing FDI and expropriation. One of the more important questions for any study of ICSID is why states have been willing to implement bilaterally what they refused to implement multilaterally. Ginsburg (2005) suggests that individual countries were simply acting rationally in a prisoner's dilemma, and that may be true given their expectations of higher levels of investment that BITs would bring. However, if the expected rise in investment does not occur, we should expect to see states begin to exert their sovereign right to withdraw from treaties, or perhaps more immediately to begin to contest the implementation of the treaties that they have signed.

Also, does the BIT/ICSID regime generate more desirable rules for LDCs, since they negotiated and signed BITs on a case-by-case basis? Or is the overall outcome the same as it would have been under MAI? Or do powerful, developed states coerce LDCs into signing bilateral treaties (which provides developed states with greater bargaining leverage in negotiations) but then insist upon multilateral enforcement through ICSID (which also serves developed country interests)?

5) Future Scenarios

ICSID's growth provides unique challenges in studying its importance for relations between investors and LDCs. In the wake of the 2001 Argentine crisis, more than thirty firms have filed claims against the Argentine government through ICSID, and their total damage claims amount to 11% of Argentina's GDP.[40] Argentina has begun a large campaign to challenge the ICSID claims, and is framing the issue around its right to revalue its currency.

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[39] This question is not as easily explored as it may seem due to the lack of much data on bilateral FDI flows. Graham (2001: 7) even points to the sorry state of FDI data as a cause for the failure of MIA (negotiators couldn't produce a number for expected benefits, which made political persuasion more difficult)!

[40] "Getting Serious: Business in Argentina." *The Economist* May 19, 2005.

Initially, in hopes of persuading the foreign investors to withdraw their ICSID disputes, the government threatened to "investigate the concessions as to the level of compliance by the privatized companies with the investments agreed upon in the contracts".[41] In "Jose Cartellone Construcciones vs. Hidroelectrica Norpatagonica S.A.", the Supreme Court recently ruled that local courts could review arbitral awards even in the case where one or both of the parties waived their right of appeal. Additionally, in 2003, Argentina set up the Unit for the Assistance in Arbitration Defense, a branch of the office of the Attorney General that will serve both to organize negotiations with investors and to litigate the arbitration cases before ICSID.[42] One Argentine prosecutor has argued at an ICSID arbitration panel that BITs do not take precedence over the Argentine constitution, and that investors cannot use such treaties to avoid appearing before local judges.[43] As such, it appears that the Calvo Clause is not dead. It seems unlikely that Argentina will fulfill a series of ICSID awards, but there are incentives for both aggrieved investors and the Argentine government to negotiate settlements in this case, and of course the ICSID procedures allow for such a resolution. Nonetheless, given the magnitude of the stakes in Argentina, ICSID's future may very well depend on resolutions that are satisfactory to all parties involved.

## Conclusion

ICSID is a little-known organization with a central role in the international investment regime. It is particularly important for the relationship between rich country multinational corporations and poor or middle income countries who are trying to increase their levels of investment. ICSID's success at settling disputes between investors and states has increased the value of signing international investment agreements, and in turn, the expansion of those agreements has increased ICSID's current and future caseloads.

Because of these two interlocking trends, ICSID proceedings will almost certainly be more scrutinized in the future. In response to proposed ICSID reforms in late 2004, the South Centre, a Geneva-based international organization whose members include 48 developing countries, released a lengthy critique. The South Centre claimed that the reforms "reflect the concerns of investors and developed countries" and failed to consider the developing countries in its reform process.[44]

In fact, it is likely that developing countries will begin to question their willingness to join an investment regime that – while masquerading as a bilateral treaty regime with very small scope – "can be seen as a multilateral attempt by developed countries to re-establish the favorable standard for expropriation as articulated by the Hull Rule".[45] Argentina's recent reassertion of the Calvo Doctrine indicates that the pendulum has begun to swing in the other direction. The question for ICSID and for the current bilateral treaty regime is whether it can continue to be relevant in the face of increased hostility to the new power it has granted foreign investors. This is especially important given that the ICSID Convention "permits a state party to stipulate that the private foreign investor must first exhaust local remedies offered by the state before ICSID will exercise jurisdiction…" (Baker 1999: 47).

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[41] Alfaro 2004.
[42] World Trade Executive, Inc. 2003. "Developments in Argentina's Utilities Dispute in ICSID." P. 26-27.
[43] Alfaro 2004.
[44] Peterson 2005. INVEST-SD: Investment Law and Policy News Bulletin, March.10, 2005. Available at http://www.iisd.org/investment.
[45] Ginsburg 2005: 111.

LDCs have thus far not been able to use that clause to their advantage, perhaps due to contradictory language in the investment agreements. This may change in the future in a way that undermines ICSID's early precedents. Because BITs often allow or require regular renegotiation, a second generation of investment treaties is now being negotiated. ICSID developments will almost certainly affect the language in these new treaties, and because the stakes are now clearer, they are likely to be more difficult to conclude.[46]

In any case, however, we believe that ICSID's existence is a crucial element in explaining the expansion of international investment agreements in the last ten years. Even if its future does not follow current trend lines, it deserves more attention from political scientists. ICSID is an interesting case study of an international organization that steadily confronts the growing asymmetry of power between big multinationals and small developing countries. Given the long history of conflict between those two sets of actors, ICSID is likely to be the locus of much future discord.

[46] UNCTAD. 2006. "Systemic Issues in International Investment Agreements." IIA Monitor No. 1. http://www.unctad.org/.

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## Appendix 1: ICSID Convention Signatories.

*Reproduced from http://www.worldbank.org/icsid/constate/c-states-en.htm*

| State | Signature | Deposit of Ratification | Entry into Force of Convention |
|---|---|---|---|
| Afghanistan | Sep. 30, 1966 | June 25, 1968 | July 25, 1968 |
| Albania | Oct. 15, 1991 | Oct. 15, 1991 | Nov. 14, 1991 |
| Algeria | Apr. 17, 1995 | Feb. 21, 1996 | Mar. 22, 1996 |
| Argentina | May 21, 1991 | Oct. 19, 1994 | Nov. 18, 1994 |
| Armenia | Sep. 16, 1992 | Sep. 16, 1992 | Oct. 16, 1992 |
| Australia | Mar. 24, 1975 | May 2, 1991 | June 1,1991 |
| Austria | May 17, 1966 | May 25, 1971 | June 24, 1971 |
| Azerbaïjan | Sep. 18, 1992 | Sep. 18, 1992 | Oct. 18, 1992 |
| Bahamas | Oct. 19, 1995 | Oct. 19, 1995 | Nov. 18, 1995 |
| Bahrain | Sep. 22, 1995 | Feb. 14, 1996 | Mar. 15, 1996 |
| Bangladesh | Nov. 20, 1979 | Mar. 27, 1980 | Apr. 26, 1980 |
| Barbados | May 13, 1981 | Nov. 1, 1983 | Dec. 1, 1983 |
| Belarus | July 10, 1992 | July 10, 1992 | Aug. 9, 1992 |
| Belgium | Dec. 15, 1965 | Aug. 27, 1970 | Sep. 26, 1970 |
| Belize | Dec. 19, 1986 | | |
| Benin | Sep. 10, 1965 | Sep. 6, 1966 | Oct. 14, 1966 |
| Bolivia | May 3, 1991 | June 23, 1995 | July 23, 1995 |
| Bosnia and Herzegovina | Apr. 25, 1997 | May 14, 1997 | June 13, 1997 |
| Botswana | Jan. 15, 1970 | Jan. 15, 1970 | Feb. 14, 1970 |
| Brunei Darussalam | Sep.16, 2002 | Sep.16, 2002 | Oct. 16, 2002 |
| Bulgaria | Mar. 21, 2000 | Apr. 13, 2001 | May 13, 2001 |
| Burkina Faso | Sep. 16, 1965 | Aug. 29, 1966 | Oct. 14, 1966 |
| Burundi | Feb. 17, 1967 | Nov. 5, 1969 | Dec. 5, 1969 |
| Cambodia | Nov. 5, 1993 | Dec. 20, 2004 | Jan. 19, 2005 |
| Cameroon | Sep. 23, 1965 | Jan. 3, 1967 | Feb. 2, 1967 |
| Central African Republic | Aug. 26, 1965 | Feb. 23, 1966 | Oct. 14, 1966 |
| Chad | May 12, 1966 | Aug. 29, 1966 | Oct. 14, 1966 |
| Chile | Jan. 25, 1991 | Sep. 24, 1991 | Oct. 24, 1991 |
| China | Feb. 9, 1990 | Jan. 7, 1993 | Feb. 6, 1993 |
| Colombia | May 18, 1993 | July 15, 1997 | Aug. 14, 1997 |
| Comoros | Sep. 26, 1978 | Nov. 7, 1978 | Dec. 7, 1978 |
| Congo | Dec. 27, 1965 | June 23, 1966 | Oct. 14, 1966 |
| Congo, Democratic Rep. of | Oct. 29, 1968 | Apr. 29, 1970 | May 29, 1970 |
| Costa Rica | Sep. 29, 1981 | Apr. 27, 1993 | May 27, 1993 |
| Côte d'Ivoire | June 30, 1965 | Feb. 16, 1966 | Oct. 14, 1966 |
| Croatia | June 16, 1997 | Sep. 22, 1998 | Oct. 22, 1998 |

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|---|---|---|---|
| **Cyprus** | Mar. 9, 1966 | Nov. 25, 1966 | Dec. 25, 1966 |
| **Czech Republic** | Mar. 23, 1993 | Mar. 23, 1993 | Apr. 22, 1993 |
| Dominican Republic | Mar. 20, 2000 | | |
| **Denmark** | Oct. 11, 1965 | Apr. 24, 1968 | May 24, 1968 |
| **Ecuador** | Jan. 15, 1986 | Jan. 15, 1986 | Feb. 14, 1986 |
| **Egypt, Arab Rep. of** | Feb. 11, 1972 | May 3, 1972 | June 2, 1972 |
| **El Salvador** | June 9, 1982 | Mar. 6, 1984 | Apr. 5, 1984 |
| **Estonia** | June 23, 1992 | June 23, 1992 | Jul. 23, 1992 |
| Ethiopia | Sep. 21, 1965 | | |
| **Fiji** | July 1, 1977 | Aug. 11, 1977 | Sep. 10, 1977 |
| **Finland** | July 14, 1967 | Jan. 9, 1969 | Feb. 8, 1969 |
| **France** | Dec. 22, 1965 | Aug. 21, 1967 | Sep. 20, 1967 |
| **Gabon** | Sep. 21, 1965 | Apr. 4, 1966 | Oct. 14, 1966 |
| **Gambia, The** | Oct. 1, 1974 | Dec. 27, 1974 | Jan. 26, 1975 |
| **Georgia** | Aug. 7, 1992 | Aug. 7, 1992 | Sep. 6, 1992 |
| **Germany** | Jan. 27, 1966 | Apr. 18, 1969 | May 18, 1969 |
| **Ghana** | Nov. 26, 1965 | July 13, 1966 | Oct. 14, 1966 |
| **Greece** | Mar. 16, 1966 | Apr. 21, 1969 | May 21, 1969 |
| **Grenada** | May 24, 1991 | May 24, 1991 | June 23, 1991 |
| **Guatemala** | Nov. 9, 1995 | Jan. 21, 2003 | Feb. 20, 2003 |
| **Guinea** | Aug. 27,1968 | Nov. 4, 1968 | Dec. 4, 1968 |
| Guinea-Bissau | Sep. 4, 1991 | | |
| **Guyana** | July 3, 1969 | July 11, 1969 | Aug. 10, 1969 |
| Haiti | Jan. 30, 1985 | | |
| **Honduras** | May 28, 1986 | Feb. 14, 1989 | Mar. 16, 1989 |
| **Hungary** | Oct. 1, 1986 | Feb. 4, 1987 | Mar. 6, 1987 |
| **Iceland** | July 25, 1966 | July 25, 1966 | Oct. 14, 1966 |
| **Indonesia** | Feb. 16, 1968 | Sep. 28, 1968 | Oct. 28, 1968 |
| **Ireland** | Aug. 30, 1966 | Apr. 7, 1981 | May 7, 1981 |
| **Israel** | June 16, 1980 | June 22, 1983 | July 22, 1983 |
| **Italy** | Nov. 18, 1965 | Mar. 29, 1971 | Apr. 28, 1971 |
| **Jamaica** | June 23, 1965 | Sep. 9, 1966 | Oct. 14, 1966 |
| **Japan** | Sep. 23, 1965 | Aug. 17, 1967 | Sep. 16, 1967 |
| **Jordan** | July 14, 1972 | Oct. 30, 1972 | Nov. 29, 1972 |
| **Kazakhstan** | July 23, 1992 | Sep. 21, 2000 | Oct. 21, 2000 |
| **Kenya** | May 24, 1966 | Jan. 3, 1967 | Feb. 2, 1967 |
| **Korea, Rep. of** | Apr. 18, 1966 | Feb. 21, 1967 | Mar. 23, 1967 |
| **Kuwait** | Feb. 9, 1978 | Feb. 2, 1979 | Mar. 4, 1979 |
| Kyrgyz, Republic | June 9, 1995 | | |
| **Latvia** | Aug. 8, 1997 | Aug. 8, 1997 | Sep. 7, 1997 |

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|---|---|---|---|
| **Lebanon** | Mar. 26, 2003 | Mar. 26, 2003 | Apr. 25, 2003 |
| **Lesotho** | Sep. 19, 1968 | July 8, 1969 | Aug. 7, 1969 |
| **Liberia** | Sep. 3, 1965 | June 16, 1970 | July 16, 1970 |
| **Lithuania** | July 6, 1992 | July 6, 1992 | Aug. 5, 1992 |
| **Luxembourg** | Sep. 28, 1965 | July 30, 1970 | Aug. 29, 1970 |
| **Macedonia, former Yugoslav Rep. of** | Sep. 16, 1998 | Oct. 27, 1998 | Nov. 26, 1998 |
| **Madagascar** | June 1, 1966 | Sep. 6, 1966 | Oct. 14, 1966 |
| **Malawi** | June 9, 1966 | Aug. 23, 1966 | Oct. 14, 1966 |
| **Malaysia** | Oct. 22, 1965 | Aug. 8, 1966 | Oct. 14, 1966 |
| **Mali** | Apr. 9, 1976 | Jan. 3, 1978 | Feb. 2, 1978 |
| **Malta** | Apr. 24, 2002 | Nov. 3, 2003 | Dec. 3, 2003 |
| **Mauritania** | July 30, 1965 | Jan. 11, 1966 | Oct. 14, 1966 |
| **Mauritius** | June 2, 1969 | June 2, 1969 | July 2, 1969 |
| **Micronesia** | June 24, 1993 | June 24, 1993 | July 24, 1993 |
| Moldova | Aug. 12, 1992 | | |
| **Mongolia** | June 14, 1991 | June 14, 1991 | July 14, 1991 |
| **Morocco** | Oct. 11, 1965 | May 11, 1967 | June 10, 1967 |
| **Mozambique** | Apr. 4, 1995 | June 7, 1995 | July 7, 1995 |
| Namibia | Oct. 26, 1998 | | |
| **Nepal** | Sep. 28, 1965 | Jan. 7, 1969 | Feb. 6, 1969 |
| **Netherlands** | May 25, 1966 | Sep. 14, 1966 | Oct. 14, 1966 |
| **New Zealand** | Sep. 2, 1970 | Apr. 2, 1980 | May 2, 1980 |
| **Nicaragua** | Feb. 4, 1994 | Mar. 20, 1995 | Apr. 19, 1995 |
| **Niger** | Aug. 23, 1965 | Nov. 14, 1966 | Dec. 14, 1966 |
| **Nigeria** | July 13, 1965 | Aug. 23, 1965 | Oct. 14, 1966 |
| **Norway** | June 24, 1966 | Aug. 16, 1967 | Sep. 15, 1967 |
| **Oman** | May 5, 1995 | July 24, 1995 | Aug. 23, 1995 |
| **Pakistan** | July 6, 1965 | Sep. 15, 1966 | Oct. 15, 1966 |
| **Panama** | Nov. 22, 1995 | Apr. 8, 1996 | May 8, 1996 |
| **Papua New Guinea** | Oct. 20, 1978 | Oct. 20, 1978 | Nov. 19, 1978 |
| **Paraguay** | July 27, 1981 | Jan. 7, 1983 | Feb. 6, 1983 |
| **Peru** | Sep. 4, 1991 | Aug. 9, 1993 | Sep. 8, 1993 |
| **Philippines** | Sep. 26, 1978 | Nov. 17, 1978 | Dec. 17, 1978 |
| **Portugal** | Aug. 4, 1983 | July 2, 1984 | Aug. 1, 1984 |
| **Romania** | Sep. 6, 1974 | Sep. 12, 1975 | Oct. 12, 1975 |
| Russian Federation | June 16, 1992 | | |
| **Rwanda** | Apr. 21, 1978 | Oct. 15, 1979 | Nov. 14, 1979 |
| **Saint Vincent and the Grenadines** | Aug. 7, 2001 | Dec. 16, 2002 | Jan. 15, 2003 |
| **Samoa** | Feb. 3, 1978 | Apr. 25, 1978 | May 25, 1978 |

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|---|---|---|---|
| Sao Tome and Principe | Oct. 1, 1999 | | |
| **Saudi Arabia** | Sep. 28, 1979 | May 8, 1980 | June 7, 1980 |
| **Senegal** | Sep. 26, 1966 | Apr. 21, 1967 | May 21, 1967 |
| Serbia and Montenegro | July 31, 2002 | | |
| **Seychelles** | Feb. 16, 1978 | Mar. 20, 1978 | Apr. 19, 1978 |
| **Sierra Leone** | Sep. 27, 1965 | Aug. 2, 1966 | Oct. 14, 1966 |
| **Singapore** | Feb. 2, 1968 | Oct. 14, 1968 | Nov. 13, 1968 |
| **Slovak Republic** | Sep. 27, 1993 | May 27, 1994 | June 26, 1994 |
| **Slovenia** | Mar. 7, 1994 | Mar. 7, 1994 | Apr. 6, 1994 |
| **Solomon Islands** | Nov. 12, 1979 | Sep. 8, 1981 | Oct. 8, 1981 |
| **Somalia** | Sep. 27, 1965 | Feb. 29, 1968 | Mar. 30, 1968 |
| **Spain** | Mar. 21, 1994 | Aug. 18, 1994 | Sept. 17, 1994 |
| **Sri Lanka** | Aug. 30, 1967 | Oct. 12, 1967 | Nov. 11, 1967 |
| **St. Kitts & Nevis** | Oct. 14, 1994 | Aug. 4, 1995 | Sep. 3, 1995 |
| **St. Lucia** | June 4, 1984 | June 4, 1984 | July 4, 1984 |
| **Sudan** | Mar. 15, 1967 | Apr. 9, 1973 | May 9, 1973 |
| **Swaziland** | Nov. 3, 1970 | June 14, 1971 | July 14, 1971 |
| **Sweden** | Sep. 25, 1965 | Dec. 29, 1966 | Jan. 28, 1967 |
| **Switzerland** | Sep. 22, 1967 | May 15, 1968 | June 14, 1968 |
| **Syria** | May 25, 2005 | Jan. 25, 2006 | Feb. 24, 2006 |
| **Tanzania** | Jan. 10, 1992 | May 18, 1992 | June 17, 1992 |
| Thailand | Dec. 6, 1985 | | |
| **Timor-Leste** | July 23, 2002 | July 23, 2002 | Aug. 22, 2002 |
| **Togo** | Jan. 24, 1966 | Aug. 11, 1967 | Sep. 10, 1967 |
| **Tonga** | May 1, 1989 | Mar. 21, 1990 | Apr. 20, 1990 |
| **Trinidad and Tobago** | Oct. 5, 1966 | Jan. 3, 1967 | Feb. 2, 1967 |
| **Tunisia** | May 5, 1965 | June 22, 1966 | Oct. 14, 1966 |
| **Turkey** | June 24, 1987 | Mar. 3, 1989 | Apr. 2, 1989 |
| **Turkmenistan** | Sep. 26, 1992 | Sep. 26, 1992 | Oct. 26, 1992 |
| **Uganda** | June 7, 1966 | June 7, 1966 | Oct. 14, 1966 |
| **Ukraine** | Apr. 3, 1998 | June 7, 2000 | July 7, 2000 |
| **United Arab Emirates** | Dec. 23, 1981 | Dec. 23, 1981 | Jan. 22, 1982 |
| **United Kingdom of Great Britain and Northern Ireland** | May 26, 1965 | Dec. 19, 1966 | Jan. 18, 1967 |
| **United States of America** | Aug. 27, 1965 | June 10, 1966 | Oct. 14, 1966 |
| **Uruguay** | May 28, 1992 | Aug. 9, 2000 | Sep. 8, 2000 |
| **Uzbekistan** | Mar. 17, 1994 | July 26, 1995 | Aug. 25, 1995 |
| **Venezuela** | Aug. 18, 1993 | May 2, 1995 | June 1, 1995 |
| **Yemen, Republic of** | Oct. 28, 1997 | Oct. 21, 2004 | Nov. 20, 2004 |
| **Zambia** | June 17, 1970 | June 17, 1970 | July 17, 1970 |
| **Zimbabwe** | Mar. 25, 1991 | May 20, 1994 | June 19, 1994 |